IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 1286 of 2004

Between:

B.Chalapathi Rao,

S.o Amru, Aged 33 years,

R/o Modukuru Post, Bandalapadu village,

Chandragondu Mandal,

Khammam District.

..... PETITIONER

AND

1. Andhra Bank

(A Government of India Undertaking)

Saifabad, Hyderabad, rep. By its

General Manager (HRD)

2. Deputy General Manager (HRD).

Andhra Bank, Head Office,

Saifabad, Hyderabad.

3. Branch Manager,

Andhra Bank, Bus Station Complex,

Khammam, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Mandamus or any other appropriate writ declaring the action of the respondents in not regularizing the services of the petitioner in the respondent-Bank is illegal, unjust and consequently direct the respondents to regularize the services of the petitioner.

For the Petitioner: Mr. G. Vidyasagar, Advocate

For the Respondents : Mr. Nuty Ram Mohan Rao, Standing Counsel

The Court Made the Following Order:

At the request of the learned counsel for the respective parties the writ petition is taken up for disposal.

The writ petitioner joined as sub-staff of the Andhra Bank at Khammam Branch on 1.8.1990 and worked up to 30.4.1995 in various spells in all for 148 days. He submitted a representation on 4.10.1996 for absorption into the service of the bank. There being no response he sent up further representations during February 1998 to February 1999. As he was not taken into service either on a permanent or even on a casual basis, after submitting further representations he has filed this writ petition, seeking regularisation of his services.

This court by the order dated 23.1.2004 granted interim direction to the respondents to consider engaging of the petitioner as per the provisions of Sections 25 G and H of the Industrial Act, 1947 (for short 'the Act'), whenever vacancies arise. The respondent-bank filed WVMP No.576/04 seeking vacation of the interim order and at the hearing of this application, the parties requested that the writ petition itself be disposed of.

In the counter affidavit the respondent-Bank contends that faced with the regnal problem of engagement of staff on casual basis and the intractable problems arising therefrom in various public sector banks

through out the country the Government of India in the Ministry of Finance and Economic Affairs issued a circular dated 16.8.1990 sensitising various public sector banks to the need to create a panel of temporary employees, among other suggestions contained in an appended “approach paper”. The parameters of the problem and the solutions therefor had been delineated in the approach paper.

In so far as the Andhra Bank is concerned a settlement u/Sec.12(3) of the Act was arrived at on 19.1.1995 in the presence of the Assistant Labour Commissioner (Central), Hyderabad and representatives of the management of the bank and All India Andhra Bank Award Employees’ Union participated. As per the settlement all eligible temporary candidates who were engaged by the bank during 1.1.1982 and 31.12.1989 who had responded to the press notification of the Bank dated 28.10.1991 and 21.10.1991 and Circular No.310 dated 18.10.1991, who had put in a minimum service of 90 days or more during the above period and whose names are cleared by the Directorate General of Employment and Training, Government of India, in terms of the approach paper, would be eligible for the benefits under the settlement. *Inter alia* under the settlement, all eligible temporary candidates would be empanelled districtwise in accordance with the seniority calculated on the basis of the number of days they had worked in the bank during the aforesaid period. Para8 of the settlement sets out the procedure for employment and absorption and sub-paragraph(c) thereof obligates the bank to engage the services of the empanelled candidates under the settlement along with already existing panel candidates, if any, in leave vacancies in their respective districts by rotation for a maximum period of 30 days at a stretch till such time, the scope for their absorption arises. Other provisions with regard to the absorption of such empanelled candidates have also been set out in the memo of settlement.

As the petitioner was admittedly not employed at all in the Andhra Bank during the period 1.1.1982 to 31.12.1989, he is not qualified for empanelment in terms of the settlement dated 19.1.1995. He does

not also have any preferential right for casual employment as against persons empanelled in terms of the above settlement read with the specifications in the approach paper. His claim for the benefits of the provisions of Sections 25G and H of the Act would enure only after the empanelled candidates, as above, are engaged by the bank for casual employment.

Accordingly the writ petition is disposed of with the following directions:

The petitioner shall be entitled to be considered for engagement on casual basis in the branches of the Andhra Bank in the Khammam District in the event the respondent-Bank perceives the need for engaging persons, in leave vacancies on casual basis and after accommodating all the persons empanelled pursuant to the settlement dated 19.1.1995 for the Khammam District. If persons are to be employed on casual basis even after accommodating all the persons empanelled as per the approach paper and the terms of the settlement, the respondent-Bank shall consider the case of the petitioner along with others similarly circumstanced, in conformity with the provisions of Sections 25G and H of the Act.

The writ petition is disposed of as above. No costs.

Date: 16.07.2004 ----------

Pvsn Justice G.Raghuram

To

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